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AN ACT

RELATING TO PUBLIC SCHOOLS; PERMITTING PUBLIC SCHOOL STUDENTS WHO ARE ENROLLED, OR ELIGIBLE FOR ENROLLMENT, IN FEDERALLY RECOGNIZED INDIAN NATIONS, TRIBES AND PUEBLOS TO WEAR TRIBAL REGALIA AT GRADUATION CEREMONIES OR PUBLIC SCHOOL EVENTS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-5-4.3 NMSA 1978 (being Laws 1986, Chapter 33, Section 9, as amended by Laws 2021, Chapter 19, Section 1 and by Laws 2021, Chapter 37, Section 1 and also by Laws 2021, Chapter 51, Section 8) is amended to read:

"22-5-4.3. SCHOOL DISCIPLINE POLICIES--RACIAL SENSITIVITY AND ANTI-RACISM TRAINING--HOTLINE FOR REPORTING RACIALLY CHARGED INCIDENTS AND RACIALIZED AGGRESSION INVOLVING STUDENTS OR SCHOOL PERSONNEL--STUDENTS MAY SELF-ADMINISTER CERTAIN MEDICATIONS.--

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school. No local school

1 board shall allow for the imposition of discipline,
2 discrimination or disparate treatment against a student based
3 on the student's race, religion or culture or because of the
4 student's use of protective hairstyles or cultural or
5 religious headdresses.

6 B. Each school district discipline policy shall
7 establish rules of conduct governing areas of student and
8 school activity, detail specific prohibited acts and
9 activities and enumerate possible disciplinary sanctions,
10 which sanctions may include in-school suspension, school
11 service, suspension or expulsion. Corporal punishment shall
12 be prohibited by each local school board and each governing
13 body of a charter school.

14 C. An individual school within a school district
15 may establish a school discipline policy, provided that
16 parents, school personnel and students are involved in its
17 development and a public hearing is held in the school prior
18 to its adoption. If an individual school adopts a discipline
19 policy in addition to the local school board's school
20 district discipline policy, it shall submit its policy to the
21 local school board for approval.

22 D. All school discipline policies shall define and
23 include a specific prohibition against racialized aggression
24 involving a student or school personnel. Every school
25 district and every charter school shall provide links to the

1 statewide hotline to report racially charged incidents or
2 racialized aggression.

3 E. No school employee who in good faith reports
4 any known or suspected violation of the school discipline
5 policy or in good faith attempts to enforce the policy shall
6 be held liable for any civil damages as a result of such
7 report or of the employee's efforts to enforce any part of
8 the policy.

9 F. All public school and school district
10 discipline policies shall allow students to carry and
11 self-administer asthma medication and emergency anaphylaxis
12 medication that has been legally prescribed to the student by
13 a licensed health care provider under the following
14 conditions:

15 (1) the health care provider has instructed
16 the student in the correct and responsible use of the
17 medication;

18 (2) the student has demonstrated to the
19 health care provider and the school nurse or other school
20 official the skill level necessary to use the medication and
21 any device that is necessary to administer the medication as
22 prescribed;

23 (3) the health care provider formulates a
24 written treatment plan for managing asthma or anaphylaxis
25 episodes of the student and for medication use by the student

1 during school hours or school-sponsored activities, including
2 transit to or from school or school-sponsored activities; and

3 (4) the student's parent has completed and
4 submitted to the school any written documentation required by
5 the school or the school district, including the treatment
6 plan required in Paragraph (3) of this subsection and other
7 documents related to liability.

8 G. The parent of a student who is allowed to carry
9 and self-administer asthma medication and emergency
10 anaphylaxis medication may provide the school with backup
11 medication that shall be kept in a location to which the
12 student has immediate access in the event of an asthma or
13 anaphylaxis emergency.

14 H. Authorized school personnel who in good faith
15 provide a person with backup medication as provided in this
16 section shall not be held liable for civil damages as a
17 result of providing the medication.

18 I. Local school boards and governing bodies of
19 charter schools shall not prohibit a student who is enrolled,
20 or eligible for enrollment, in a federally recognized Indian
21 nation, tribe or pueblo from wearing tribal regalia or
22 objects of cultural significance along with or attached to a
23 cap or gown or wearing tribally significant footwear or other
24 items of apparel under a gown at graduation ceremonies or
25 public school events.

1 J. As used in this section:

2 (1) "cultural or religious headdresses"
3 includes hijabs, head wraps or other headdresses used as part
4 of a person's personal cultural or religious beliefs;

5 (2) "protective hairstyles" includes such
6 hairstyles as braids, locs, twists, tight coils or curls,
7 cornrows, bantu knots, afros, weaves, wigs or head wraps; and

8 (3) "tribal regalia" means a tribe's
9 traditional dress or recognized objects of religious or
10 cultural significance, including tribal symbols, jewelry,
11 beading and feathers."

12 SECTION 2. Section 22-8B-4 NMSA 1978 (being Laws 1999,
13 Chapter 281, Section 4, as amended) is amended to read:

14 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND
15 RESPONSIBILITIES--OPERATION.--

16 A. A charter school shall be governed by a
17 governing body in the manner set forth in the charter
18 contract; provided that a governing body shall have at least
19 five members; and provided further that no member of a
20 governing body for a charter school that is initially
21 approved on or after July 1, 2005 or whose charter is renewed
22 on or after July 1, 2005 shall serve on the governing body of
23 another charter school. No member of a local school board
24 shall be a member of a governing body for a charter school or
25 employed in any capacity by a locally chartered charter

1 school located within the local school board's school
2 district during the term of office for which the member was
3 elected or appointed.

4 B. A charter school shall be responsible for:

5 (1) its own operation, including preparation
6 of a budget, subject to audits pursuant to the Audit Act; and

7 (2) contracting for services and personnel
8 matters.

9 C. A charter school may contract with a school
10 district, a university or college, the state, another
11 political subdivision of the state, the federal government or
12 one of its agencies, a tribal government or any other third
13 party for the use of a facility, its operation and
14 maintenance and the provision of any service or activity that
15 the charter school is required to perform in order to carry
16 out the educational program described in its charter
17 contract. Facilities used by a charter school shall meet the
18 standards required pursuant to Section 22-8B-4.2 NMSA 1978.

19 D. A conversion school chartered before
20 July 1, 2007 may choose to continue using the school district
21 facilities and equipment it had been using prior to
22 conversion, subject to the provisions of Subsection E of this
23 section.

24 E. A school district that has available land or
25 one or more available facilities not currently used for other

1 educational purposes shall make facilities and may make land
2 available for lease, lease-purchase or purchase to the
3 charter schools located in the school district for the
4 charter schools' operations and shall notify the charter
5 schools of that availability no later than May 1 of each
6 year. The public school facilities authority shall annually
7 ensure that each school district with available land or one
8 or more available facilities has provided that notification.
9 A school district may develop a facility prioritization plan
10 that identifies which charter schools may lease,
11 lease-purchase or purchase available school district
12 facilities. School-district-owned land shall not be
13 considered available to a charter school if the school
14 district has justified future use of that land through its
15 five-year facilities master plan. An agreement for the use
16 of school district facilities by a charter school may provide
17 for reasonable lease payments; provided that the payments do
18 not exceed the sum of the lease reimbursement rate provided
19 in Paragraph (1) of Subsection I of Section 22-24-4 NMSA 1978
20 plus any reimbursement for actual direct costs incurred by
21 the school district in providing the facilities; and provided
22 further that any lease payments received by a school district
23 may be retained by the school district and shall not be
24 considered to be cash balances in any calculation pursuant to
25 Section 22-8-41 NMSA 1978. The available facilities provided

1 by a school district to a charter school shall meet all
2 occupancy standards as specified by the public school capital
3 outlay council. As used in this subsection, "other
4 educational purposes" includes health clinics, daycare
5 centers, teacher training centers, school district
6 administration functions and other ancillary services related
7 to a school district's functions and operations.

8 F. A locally chartered charter school may pay the
9 costs of operation and maintenance of its facilities or may
10 contract with the school district to provide facility
11 operation and maintenance services.

12 G. Locally chartered charter school facilities are
13 eligible for state and local capital outlay funds and shall
14 be included in the school district's five-year facilities
15 plan.

16 H. A locally chartered charter school shall
17 negotiate with a school district to provide transportation to
18 students eligible for transportation under the provisions of
19 the Public School Code. The school district, in conjunction
20 with the charter school, may establish a limit for student
21 transportation to and from the charter school site not to
22 extend beyond the school district boundary.

23 I. A charter school shall be a nonsectarian,
24 nonreligious and non-home-based public school.

25 J. Except as otherwise provided in the Public

1 School Code, a charter school shall not charge tuition or
2 have admission requirements.

3 K. With the approval of the chartering authority,
4 a single charter school may maintain separate facilities at
5 two or more locations within the same school district; but,
6 for purposes of calculating program units pursuant to the
7 Public School Finance Act, the separate facilities shall be
8 treated together as one school.

9 L. A charter school shall be subject to the
10 provisions of Section 22-2-8 NMSA 1978 and the Assessment and
11 Accountability Act.

12 M. Within constitutional and statutory limits, a
13 charter school may acquire and dispose of property; provided
14 that, upon termination of the charter, all assets of the
15 locally chartered charter school shall revert to the local
16 school board and all assets of the state-chartered charter
17 school shall revert to the state, except that, if all or any
18 portion of a state-chartered charter school facility is
19 financed with the proceeds of general obligation bonds issued
20 by a local school board, the facility shall revert to the
21 local school board.

22 N. The governing body of a charter school may
23 accept or reject any charitable gift, grant, devise or
24 bequest; provided that no such gift, grant, devise or bequest
25 shall be accepted if subject to any condition contrary to law

1 or to the terms of the charter. The particular gift, grant,
2 devise or bequest shall be considered an asset of the charter
3 school to which it is given.

4 O. The governing body may contract and sue and be
5 sued. A local school board shall not be liable for any acts
6 or omissions of the charter school.

7 P. A charter school shall comply with all state
8 and federal health and safety requirements applicable to
9 public schools, including those health and safety codes
10 relating to educational building occupancy.

11 Q. A charter school is a public school that may
12 contract with a school district or other party for provision
13 of financial management, food services, transportation,
14 facilities, education-related services or other services.
15 The governing body shall not contract with a for-profit
16 entity for the management of the charter school.

17 R. To enable state-chartered charter schools to
18 submit required data to the department, an accountability
19 data system shall be maintained by the department.

20 S. A charter school shall comply with all
21 applicable state and federal laws and rules related to
22 providing special education services. Charter school
23 students with disabilities and their parents retain all
24 rights under the federal Individuals with Disabilities
25 Education Act and its implementing state and federal rules.

1 Each charter school is responsible for identifying,
2 evaluating and offering a free appropriate public education
3 to all eligible children who are accepted for enrollment in
4 that charter school. The state-chartered charter school, as
5 a local educational agency, shall assume responsibility for
6 determining students' needs for special education and related
7 services. The division may promulgate rules to implement the
8 requirements of this subsection."

9 SECTION 3. A new section of the Charter Schools Act is
10 enacted to read:

11 "POLICY OF NON-DISCRIMINATION.--

12 A. A charter school shall be subject to all
13 federal and state laws and constitutional provisions
14 prohibiting discrimination on the basis of disability,
15 physical or mental handicap, serious medical condition, race,
16 creed, color, sex, gender identity, sexual orientation,
17 spousal affiliation, national origin, religion, ancestry or
18 need for special education services and shall not allow for
19 the imposition of discipline, discrimination or disparate
20 treatment against a student based on the student's race,
21 religion or culture or because of the student's use of
22 protective hairstyles or cultural or religious headdresses.

23 B. Governing bodies of charter schools shall not
24 prohibit a student who is enrolled, or eligible for
25 enrollment, in a federally recognized Indian nation, tribe or

1 pueblo from wearing tribal regalia or objects of cultural
2 significance along with or attached to a cap or gown or
3 wearing tribally significant footwear or other items of
4 apparel under a gown at graduation ceremonies or public
5 school events.

6 C. As used in this section:

7 (1) "cultural or religious headdresses"
8 includes hijabs, head wraps or other headdresses used as part
9 of a person's personal cultural or religious beliefs;

10 (2) "protective hairstyles" includes such
11 hairstyles as braids, locs, twists, tight coils or curls,
12 cornrows, bantu knots, afros, weaves, wigs or head wraps; and

13 (3) "tribal regalia" means a tribe's
14 traditional dress or recognized objects of religious or
15 cultural significance, including tribal symbols, jewelry,
16 beading and feathers."

17 SECTION 4. EMERGENCY.--It is necessary for the public
18 peace, health and safety that this act take effect
19 immediately. _____